

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
RENO, NEVADA

DENNIS MONTGOMERY, et al.,	)	3:06-CV-0056-PMP-VPC
	)	
Plaintiff(s),	)	<b><u>MINUTES OF PROCEEDINGS</u></b>
	)	
vs.	)	
	)	DATED: August 20, 2008
ETREPPID TECHNOLOGIES,	)	
et al.,	)	
	)	
Defendant(s).	)	
	)	

PRESENT: THE HONORABLE VALERIE P. COOKE, MAGISTRATE JUDGE

Deputy Clerk: Lisa Mann Court Reporter: Kathryn M. French

Counsel for Plaintiff(s): Ellyn Garofalo and Randall Sunshine

Counsel for Defendant(s): Stephen Peek and Jerry Snyder

Counsel for Counter Defendant(s): Bridgett Robb Peck and (Telephonically) Gregory Schwartz

Counsel for Interested Party: Carlotta Wells

PROCEEDINGS: CONTINUED ORDER TO SHOW HEARING

9:09 a.m. Court convenes.

The Court indicates for the record that the Court and counsel met prior to this proceeding regarding an unforeseen development concerning the delay of Mr. Montgomery's appearance today.

The Court advises counsel it shall address the issue of exhibits and then will take a brief recess until Mr. Montgomery arrives at the courthouse to proceed with this matter.

Mr. Peek moves to have all of defendants' exhibits 1 through 44, which have not already been admitted during these proceedings, admitted at this time. Ms. Garofalo objects to the admittance of defendants' exhibit 29. The Court hears argument regarding plaintiffs objection, sustains the objection; therefore, defendants' exhibit 29 shall not be admitted.

**IT IS ORDERED** that pursuant to the stipulation of counsel all of defendants' exhibits except for exhibit 29 are admitted.

Mr. Peek advises the Court and counsel that he intends to produce a declaration of Robert Powers as an additional exhibit. Ms. Garofalo objects to the admittance of this exhibit. The Court

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hears argument regarding Ms. Garofalo's objection. The Court finds that the declaration of Robert Powers shall not be admitted at this time; however, Mr. Peek shall have leave to have this exhibit marked when he is in receipt of the declaration.

Ms. Garofalo requests that plaintiffs' exhibits 1 and 2 be admitted.

**IT IS ORDERED** that plaintiffs' exhibits 1 and 2 are admitted.

**IT IS ORDERED** that the Court's exhibits 8, 10, 11, 13, 14, and 15 are admitted.

The Court advises counsel that this proceeding will now be in recess until Mr. Montgomery's arrives for this proceeding.

9:24 a.m. Court recesses.

10:25 a.m. Court reconvenes.

The Court advises the parties that Mr. Peek shall continue the cross examination of Scott Cooper.

Scott Cooper, previously sworn testifies on cross examination by defendants, testifies on re-direct by plaintiffs, and is excused.

The Court addresses the parties regarding the procedural issue concerning counsels' closing arguments. Ms. Garofalo advises that plaintiffs waive any objection only to the order in which closing argument is given. The Court and the parties discuss this issue. The Court advises that defendants shall give their closing arguments first and plaintiffs shall then give their closing arguments.

11:23 a.m. Court recesses.

12:59 p.m. Court reconvenes.

The Court advises counsel that they shall proceed with their closing arguments.

Defendants give closing arguments.

Plaintiffs give closing arguments.

Defendants give rebuttal closing arguments.

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The Court advises that pursuant to the Court's order to show cause (#759), the parties shall have until **Friday, September 19, 2008** by **5:00 P.D.T.** to submit post-hearing briefs.

The Court further advises counsel that there may be some issues concerning document production and other related discovery matters still outstanding; therefore, the Court shall review the minutes from the case management conference held earlier this week and may issue separate minute orders in that regard.

With respect to this Court's order (#809), **IT IS ORDERED** that the correspondence required to be produced in response to Request No. 26, set two, shall be produced without any limitation no later than **Friday, August 29, 2008**.

Ms. Garofalo reports that the Montgomery parties agree to remove the "highly confidential" designation on the twenty-one hard drives to make it easier for the eTreppid parties to review that material.

2:45 p.m. Court adjourns.

THEREAFTER, the Court observes that the following issues discussed at the case management conference on August 18, 2008 shall be amended:

- 1) Counsel shall meet and confer and file a joint proposal concerning potential alternative dispute resolution options by no later than **Friday, August 29, 2008**.
- 2) With respect to CDs which were the subject of the July 15, 2008 discovery status conference, Mr. Sunshine shall produce these CDs by no later than **Friday, August 29, 2008**.
- 3) The parties shall meet and confer to refine their proposed deadlines regarding a joint proposed discovery plan and scheduling including rebuttal discovery deadline and deadline to amend pleadings and add parties, and file such no later than **Friday, August 29, 2008**.
- 4) Counsel are directed to report on the status of the Sue Perez deposition at the September 16, 2008 case management conference.

**IT IS SO ORDERED.**

LANCE S. WILSON, CLERK

By: \_\_\_\_\_/s/

Lisa Mann, Deputy Clerk